

Title 9 Update

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Indiana Prosecuting Attorneys Council



Reckless Driving

IC 9-21-8-52

- Penalty lowered from Class B to Class C
- Class B for causing damage to property
- Class A for bodily injury
- Cannot suspend license (even under 9-30-16) unless there is damage



Multiple I.D.s

IC 9-24-11-4

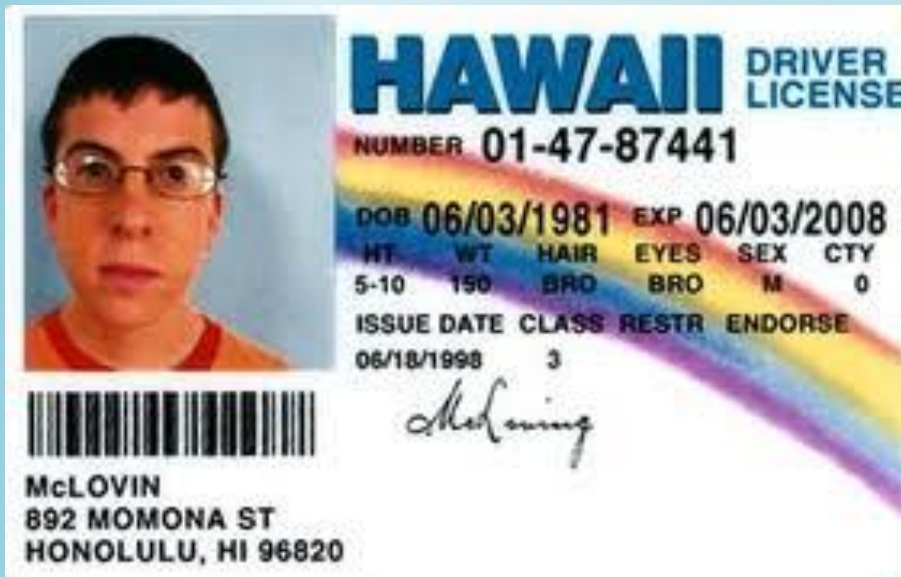
- Person may not hold or possess more than one license or bureau issued ID under 9-24 at the same time.
- Concern over legislators having a state issued ID card in addition to their Indiana Operators License



Fake I.D.

IC 9-24-18-7.5

- Not covered by current statute
- Class B Misdemeanor for counterfeiting or falsely reproducing a driver's license



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Leaving the Scene

Current statute requires a person to *either* stop at the scene *or* give information. Removes the either/or

Failure to render assistance penalty for passenger reinstated



LTS Problems

Reporting only requires reporting to law enforcement...any law enforcement

Requirements in SBI and Death cases require rendering reasonable assistance and, as soon as possible after the accident, to police or 911



Salvage/Scrapyard Penalties

Several statutes governing the penalties for scrap, salvage, and junkyards were changed from misdemeanors to infractions

This was done to be in line with other crimes against businesses

Lower burden, higher fine



HTV Qualifiers

All felonies in Title 9

**Felonies in which operation of a motor vehicle
is an element**

Removes Operation of a Class B MDC



HTV Determination

Only happens once

No auto-determination from the BMV IF the court has declared the person to be HTV

Defendant can request, and court can find, defendant to be HTV by a preponderance of the evidence

- Not clear how this will work
- Prosecutor has no dog in this fight
- 9-30-10-5-6.5



HVSO

IC 9-30-15.5-2

- HVSO language was cleared up
 - 2 offenses, so long as one conviction is within 10 years of the current offense
 - 3 offenses any time
 - No jury requirement for sentencing
 - Must be filed in Circuit or Superior Court

- 1-8 year aggravator, still suspendable



Obstruction of Traffic

IC 35-44.1-2-13

- Requires intent to obstruct traffic
 - Class B Misdemeanor
 - Class A if it includes use of a motor vehicle
 - Level 6 if it results in injury
- A person who unreasonably obstructs traffic commits a Class C infraction
- Defense for vehicle malfunction



Solid Waste Haulers

IC 9-21-8-35

- Must slow down when passing solid waste haulers displaying flashing amber lights
- Class B infraction



Speeding in Left Lane

IC 9-21-5-9

- Old law stated if you drove under the speed limit, you had to be in the right lane
- New law says if you know, or reasonably know, that a vehicle is overtaking you in the left lane, you have to move into the right lane (as long as it is safe to do so)
- Odd concept that penalizes the person going the speed limit, not the person speeding



Penalties into Statutes

Many penalties were moved from general penalty statutes into the specific statute

No more “any penalty under this chapter” statutes (hopefully)



HTV Life

IC 9-30-10-14.1

- Allows for HTV life suspensions to get their license back
 - Must be 10 years from when privileges were issued
 - No disqualification for multiple offenses
 - Doesn't apply to HTV Life determinations after January 1st, 2015, or HTV Life based on cases causing death

Lifetime suspension on conviction of a Level 6 HTV is removed



OWI Suspensions

9-30-4-6 repealed – Vehicle registration suspensions on vehicular death cases or damage

9-30-5-10 repealed

- This was all the old OWI suspension mechanisms
- All now covered by 9-30-16



Out of State Suspensions

IC 9-30-4-9

- One year suspensions for
 - Offenses causing SBI
 - OWI
- Eligible for SDPs

Filed in court of last offense



SDPs - General

Penalty is finally in!

- Class C misdemeanor

OWIs governed by 9-30-16-1(c)

- Added 9-30-5 language to deal with vehicle/motor vehicle issue

Mandatory 1 year suspension for person with prior OWI, though still eligible for a SDP



SDPs - Eligibility

9-28-2-9(f) - No SDP on an FTA

CDLs can get SDPs, but cannot operate vehicles that require a CDL

Never had license/permit can get SDP

- Must have been a resident at time of suspension
- Must get a license as a term of the SDP order

Refusals are only barred for the refusal suspension, NOT if they've ever refused



SDPs – Credit Time

Credit time provisions put back in

Allows court to terminate refusal as well

- This should allow for stipulation

Keep in mind credit time is already in for time on ignition interlock devices



Filing SDPs

If a court orders or imposes the suspension, SDPs are granted under 9-30-16-3

- Sentences
- PC Affidavits
- Things with an existing cause number
- Must be from that court, no forum shopping

If the BMV imposes the suspension, SDPs are granted under 9-30-16-4

- Suspensions for points, no insurance, HTV, etc.
- Must file in county of residence



SDPs after Plea

Defendant agrees to set suspension; eligible for SDP?

- If it is a suspension, then probably
- Less clear when it is a forfeiture of privileges
- IC 9-30-10-19 added “forfeiture” language
- Will probably take an appeals case



Autocycles



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Autocycles



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Autocycles

IC 9-13-2-6.1

Does not require Motorcycle Endorsement
Must still follow all the normal rules of the road;

- License
- Insurance
- Plated



Minitrucks



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Minitrucks

IC 9-13-2-103.1

Must still follow all the normal rules of the road;

- License
- Insurance
- Plated

No interstates!



Expungement

IC 35-38-9-6(a)(2)(g)

- (g) the bureau of motor vehicles, the Federal Motor Carrier Administration, and the Commercial Driver's License Information System (CDLIS), if disclosure is required to comply with IC 9-24-6-2(d) relating to reporting a conviction for a violation of a traffic control law
- *Might* solve the problem.



Expungement

IC 35-38-9-7(c)

- Nothing in this chapter prevents the bureau of motor vehicles from reporting information about a conviction for a violation of a traffic control law do the Commercial Drivers License Information System (CDLIS), in accordance with IC 9-24-6-2(d), even if the conviction has been expunged under section 4 or 5 of this chapter.
- May want to inform defense that this should not allow someone who is ineligible for a CDL to be eligible.



Judge Issues

PC Affidavit

Stipulating no refusal

Out of state people

180 days of insurance



Questions?

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